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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,547	07/20/2004	Gwendolyn Fournier	U04-0141.97	4546

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EXAMINER
DEAN, RAYMOND S

ART UNIT	PAPER NUMBER
2618	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/710,547	FOURNIER ET AL.
	Examiner	Art Unit	
	Raymond S. Dean	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 November 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-8</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-8</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>20 July 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>1206</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments, see remarks filed November 30, 2006 with respect to the

rejection(s) of claim(s) 1 – 4 under 35 U.S.C. 103(a) have been fully considered and are

persuasive. Therefore, the rejection has been withdrawn. However, upon further

consideration, a new ground(s) of rejection is made in view of newly found prior art Xue

et al. (US 2005/0192039).

Xue teaches in a mobile terminal, a method of activating a silent mode for PTT

calls, the method comprising: activating a silent mode for the mobile terminal that

includes sending a message instructing a PTT server to disable the PoC global setting

associated with the mobile terminal's PTT server accept list (Sections 0003 lines 23 –

28, 0004 lines 1 – 7, 0005, 0008 lines 3 – 17, 0036, when the DnD flags are set the user

will not be disturbed, which is the silent mode).

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 5 – 8 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

Regarding Claims 5 – 8, Applicants have asserted in Section 0016 of the

specification that the computer readable medium can "propagate or transport the

program" and that said computer readable medium can be "electromagnetic, infrared",

or "optical" thus Applicants are claiming a signal which, according to pages 53 – 57 of

the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter

Eligibility, is non-statutory subject matter.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1 – 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Xue et

al. (US 2005/0192039).

Regarding Claim 1, Xue teaches in a mobile terminal, a method of activating a

silent mode for PTT calls, the method comprising: activating a silent mode for the

mobile terminal that includes sending a message instructing a PTT server to disable the

PoC global setting associated with the mobile terminal's PTT server accept list

(Sections 0003 lines 23 – 28, 0004 lines 1 – 7, 0005, 0008 lines 3 – 17, 0036, when the

DnD flags are set to particular states the user will not be disturbed, which is the silent

mode).

Regarding Claim 2, Xue teaches in a mobile terminal, a method of deactivating a

silent mode for PTT calls, the method comprising: deactivating a silent mode for the

mobile terminal that includes sending a message instructing a PTT server to enable the

PoC global setting associated with the mobile terminal's PTT server accept list

(Sections 0003 lines 23 – 28, 0004 lines 1 – 7, 0005, 0008 lines 3 – 17, 0036, when the

DnD flags are set to particular states the user will be disturbed, which means that the

silent mode will be deactivated).

Regarding Claim 3, Xue teaches in a PTT server, a method of activating a silent

mode for PTT calls for a client mobile terminal, the method comprising receiving a

message from the client mobile terminal instructing the PTT server to disable the PoC

global setting associated with the client mobile terminal's PTT server accept list, said

message the result of the mobile terminal activating a silent mode (Sections 0003 lines

23 – 28, 0004 lines 1 – 7, 0005, 0008 lines 3 – 17, 0036, GLMS is the PTT server, when

the DnD flags are set to particular states the user will not be disturbed, which is the

silent mode).

Regarding Claim 4, Xue teaches in a PTT server, a method of deactivating a

silent mode for PTT calls for a client mobile terminal, the method comprising receiving a

message from the client mobile terminal instructing the PTT server to enable the PoC

global setting associated with the client mobile terminal's PTT server accept list, said

message the result of the mobile terminal deactivating a silent mode (Sections 0003

lines 23 – 28, 0004 lines 1 – 7, 0005, 0008 lines 3 – 17, 0036, GLMS is the PTT server,

when the DnD flags are set to particular states the user will be disturbed, which means that the silent mode will be deactivated).

Regarding Claim 5, Xue teaches in a mobile terminal, a computer program product embodied on a computer readable medium for activating a silent mode for PTT calls, the computer program product comprising: computer program code for activating a silent mode for the mobile terminal that includes computer program code for sending a message instructing a PTT server to disable the PoC global setting associated with the mobile terminal's PTT server accept list (Sections 0003 lines 23 – 28, 0004 lines 1 – 7, 0005, 0008 lines 3 – 17, 0031 lines 3 – 7, 0036, when the DnD flags are set to particular states the user will not be disturbed, which is the silent mode).

Regarding Claim 6, Xue teaches in a mobile terminal, a computer program product embodied on a computer readable medium for deactivating a silent mode for PTT calls, the computer program product comprising: computer program code for deactivating a silent mode for the mobile terminal that includes computer program code for sending a message instructing a PTT server to enable the PoC global setting associated with the mobile terminal's PTT server accept list (Sections 0003 lines 23 – 28, 0004 lines 1 – 7, 0005, 0008 lines 3 – 17, 0031 lines 3 – 7, 0036, when the DnD flags are set to particular states the user will be disturbed, which means that the silent mode will be deactivated).

Regarding Claim 7, Xue teaches in a PTT server, a computer program product embodied on a computer readable medium for activating a silent mode for PTT calls for a client mobile terminal, the computer program product comprising: computer program

code for receiving a message from the client mobile terminal instructing the PTT server

to disable the PoC global setting associated with the client mobile terminal's PTT server

accept list, said message the result of the mobile terminal activating a silent mode

(Sections 0003 lines 23 – 28, 0004 lines 1 – 7, 0005, 0008 lines 3 – 17, 0031 lines 3 –

7, 0036, GLMS is the PTT server, when the DnD flags are set to particular states the

user will not be disturbed, which is the silent mode).

Regarding Claim 8, Xue teaches in a PTT server, a computer program product

embodied on a computer readable medium for deactivating a silent mode for PTT calls

for a client mobile terminal, the computer program product comprising: computer

program code for receiving a message from the client mobile terminal instructing the

PTT server to enable the PoC global setting associated with the client mobile terminal's

PTT server accept list, said message the result of the mobile terminal deactivating a

silent mode (Sections 0003 lines 23 – 28, 0004 lines 1 – 7, 0005, 0008 lines 3 – 17,

0031 lines 3 – 7, 0036, GLMS is the PTT server, when the DnD flags are set to

particular states the user will be disturbed, which means that the silent mode will be
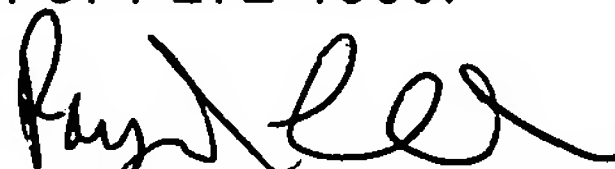
deactivated).

Conclusion

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Raymond S. Dean whose telephone number is 571-272-

7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raymond S. Dean
February 2, 2007